



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 29, 2009

The Honorable James Inhofe
United States Senate
Washington, D.C. 20510

Dear Senator Inhofe:

This responds to the letter, dated July 28, 2009, sent on behalf of yourself and other members of the Oklahoma Congressional delegation, regarding the April 14, 2009 letter that the Civil Rights Division of the Department of Justice sent to The Honorable W.A. Drew Edmondson, Attorney General of Oklahoma. Your letter expressed concern that DOJ threatened to eliminate federal funds from the Department to the state if the state legislature passed a proposed amendment to the state's constitution making English the official language of Oklahoma. Your letter asked the Department to explain why it sent this letter to Mr. Edmondson and whether the Department has sent similar letters to other states that have enacted laws declaring English to be their official language.

Earlier this year, the Department became aware through news reports that the Oklahoma legislature was considering an amendment to the state constitution making English the state's official language. Upon review of the then-pending bill, the Department noted that, similar to many other states and local jurisdictions, the proposed amendment included a provision stating that all official state government business would be conducted in the English language unless use of other languages is required by federal law. Unlike other state and local official English provisions of which we are aware, however, the pending Oklahoma bill defined federal law to exclude Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency."

Our letter to Mr. Edmondson noted that the obligation of recipients of federal financial assistance to provide limited English proficient (LEP) individuals with meaningful access to the programs and activities supported by such assistance derives from Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.* The letter further noted that the Executive Order did not create new obligations on recipients of federal financial assistance, but sought to underscore and provide renewed emphasis regarding the obligation to ensure that LEP individuals are able to enjoy and participate in the activities and programs that federal funds support. Through this letter, the Department sought to make clear that the Executive Order, which the Department has fully supported through successive Democratic and Republican Administrations,

was issued pursuant to and in support of Title VI and to offer technical assistance to create language assistance plans and cost-effective strategies to ensure meaningful access for LEP individuals. At no time did the Department's letter threaten to terminate any federal financial assistance to the state if the legislature passed the then-pending bill.

Although the Department has not sent similar letters to states regarding pending English-only legislation, we have sent letters concerning potential state actions that may affect their obligations to LEP individuals. For example, in an April 12, 2002 letter, the then-Assistant Attorney General for Civil Rights, Ralph Boyd, sent a letter to the General Counsel of the Massachusetts Administrative Office of the Trial Court in response to a newspaper article that discussed the potential loss of court interpreter services in Massachusetts in light of a pending bill that would end state funding of interpreters. On July 11, 2002, Mr. Boyd sent a similar letter to the Attorney General of Georgia advising of the Title VI requirements in light of a decision of the Georgia Supreme Court that there was no right under the state constitution to receive implied consent warnings in languages other than English in Driving Under the Influence field testing situations. More recently, the Department sent a letter to the Indiana Supreme Court with regard to that court's decision that LEP defendants were not entitled to receive interpreter services at the court's expense unless they were indigent. Our letter noted that we were not addressing the merits of the case but sought, as a courtesy, to ensure the court's awareness of the obligation to all LEP individuals under Title VI. Finally, the Department also has sent letters to all state courts and to all state departments of correction advising them of their Title VI/LEP requirements.

Please be assured that voter approval next year of Oklahoma's official English amendment would not affect the state's eligibility for federal financial assistance from the Department. The Oklahoma constitutional proposal, as revised, now appropriately allows languages other than English when required by federal law.

We hope this information is helpful. Please do not hesitate to contact this office if we may be of assistance with this or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Weich", written in a cursive style.

Ronald Weich
Assistant Attorney General